

**FILED**

**MAY 30 2008**

PATRICK E. DUFFY, CLERK  
By DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BUTTE DIVISION

|                           |   |                 |
|---------------------------|---|-----------------|
| UNITED STATES OF AMERICA, | ) | CR 08-08-BU-DWM |
|                           | ) |                 |
| Plaintiff,                | ) |                 |
|                           | ) |                 |
| vs.                       | ) | ORDER           |
|                           | ) |                 |
| MARLIN ROY HOWES,         | ) |                 |
|                           | ) |                 |
| Defendant.                | ) |                 |
| _____                     | ) |                 |

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on May 5, 2008. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

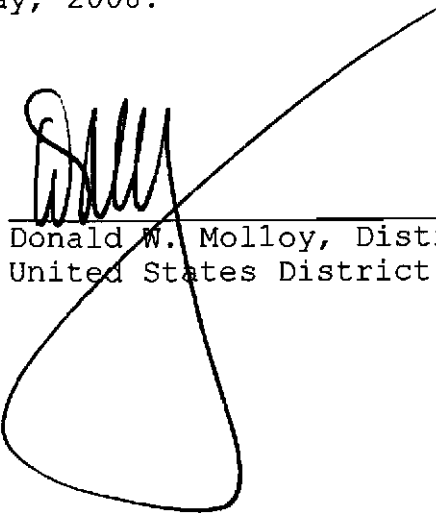
Judge Lynch recommended this Court accept Marlin Roy Howes'

guilty plea after Howes appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to the charge of conspiracy to distribute 50 or more grams of actual methamphetamine, in violation of 21 U.S.C. § 846 (Count I).

I find no clear error in Judge Lynch's Findings and Recommendation (dkt #32) and I adopt them in full.

Accordingly, IT IS HEREBY ORDERED that Defendant's motion to change plea (dkt #23) is GRANTED.

DATED this 30<sup>th</sup> day of May, 2008.



Donald W. Molloy, District Judge  
United States District Court